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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR     | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|--------------------------|---------------------|------------------|
| 10/674,724      | 09/30/2003  | Kimberly Michelle Sutter | KS-1-am-mv          | 3987             |

7590 10/28/2004  
Michael I. Kroll  
171 Stillwell Lane  
Syosset, NY 11791

EXAMINER

BASINGER, SHERMAN D

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3617

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                     |                           |  |
|------------------------------|---------------------|---------------------------|--|
| <b>Office Action Summary</b> | Application No.     | Applicant(s)              |  |
|                              | 10/674,724          | SUTTER, KIMBERLY MICHELLE |  |
|                              | Examiner            | Art Unit                  |  |
|                              | Sherman D. Basinger | 3617                      |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 13-22 and 24-26 is/are rejected.
- 7) ☒ Claim(s) 8-12, 23 and 27-30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/30/03</u>   | 6) <input type="checkbox"/> Other: ____                                     |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: on page 3, line 3, the patent number 739,961 should be inserted; on page 4, line 2, the patent number to Clasky et al should be corrected to 4,565,149; and on page 4, line 3, the year for the issuance of the Clasky et al patent should be corrected to -1986-.

Appropriate correction is required.

### ***Claim Objections***

2. Claims 4, 23 and 25 are objected to because of the following informalities:

Claim 4 should have a period at the end.

A semi-colon should be inserted at the end of paragraph p) xv) of claim 23.

Claim 25 is two sentences with two periods. A claim should have only one period at the end.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Applicant has failed to describe in detail such that it can be made and used the retractable anchor pedestals that expand and retract with the sea water tides. What are the details of the anchor and the pedestals. In amending the disclosure new matter should not be entered.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 4, 14-22 and 24-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 4, 14, 17, 19, 24 and 26 either "the main island" or "said main island" has no clear antecedent.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 5, 6 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Gruber.

Gruber discloses a man-made island resort complex 10 with entertainment, educational and lodging facilities comprising

a) a buoyant base support structure 14 capable of floating on a body

of water

b) means 12, 20 for anchoring said base support structure to the sea floor

so as to remain in a specific, preselected location regardless of  
currents, tides, wind and other such destabilizing factors;

c) surface and underwater facilities 32, 40 affiliated with said base  
support structure; and

d) a plurality of means (see column 3, lines 32-36) for transporting people and cargo  
thereto.

The lodging for guests and staff are compartments 40 and 32, 40 being above surface  
and 32 being below surface.

It is felt that because applicant has not set forth details in claim 13 as to how the  
facilities are designed and constructed to be handicap and pet accessible and user  
friendly, the facilities of Gruber are as such. As long as the handicapped, pets and  
users can use the facilities of Gruber, they are considered to be accessible and user  
friendly.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all  
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruber.

The compartments 40 of Gruber are the guest hotels. While Gruber does not disclose any of these as being dolphin shaped, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to make each as such or the plurality as such. Motivation to do so is to provide a hotel compartment which provides a level of joy and entertainment to one using it.

11. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruber in view of Labrador.

The base support structure of Gruber is not made of aerogel material. Labrador in column 22, lines 15-18 discloses the use of aerogel material for making a main body hull of a boat. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to make the base support structure of Gruber of a similar aerogel material. Motivation to do so is to make the base support structure of a light foamed plastic.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruber in view of Morris.

Gruber does not disclose a plurality of base support structures forming a main island and satellite islands. This concept is taught by Morris. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to link a number of floating habitats like that of Gruber to form a main island and satellite islands. Motivation is to form a large metropolitan area as taught by Morris.

13. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruber in view of Donnan.

Gruber does not disclose his main island as being anchored to the sea bed by retractable anchor pedestals that expand and retract with the sea water tides. Note the boat stabilizer of Donnan which has pedestals 34 which will expand and retract as the boat is moved up and down by tides. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide such anchors to the main island of Gruber to aid in anchoring the main island to the sea bed along with anchor 20. Motivation to do so is to use anchors similar to those of Gruber along with ballast 22 and anchor 20 to both stabilize and anchor the island of Gruber to the sea floor.

***Allowable Subject Matter***

14. Claims 8-12, 23, 27-30 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. Claims 14-22 and 24-26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***


16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Busey is cited to show the floating structure. In Busey note

column 2, lines 38-45. Goodboy Jr. et al is cited to show the man made island. Japan 61-175197 is cited to show the amusement park on a ship. Japan 64-18797 is cited to show a float base with airport, sleep accommodations, shops and various other leisure facilities.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 703-308-1139. The examiner can normally be reached on M-F (6:00-2:30 ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sherman D. Basinger  
Primary Examiner  
Art Unit 3617

10/27/04

Sdb  
10/27/04